

**Evaluation Findings
for the
Florida Coastal Management Program
From
December 1999 through May 2004**

July 2005

Office of Ocean and Coastal Resource Management
National Ocean Service
National Oceanic and Atmospheric Administration
United States Department of Commerce



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EXECUTIVE SUMMARY

A. OVERVIEW

Section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended, requires NOAA's Office of Ocean and Coastal Resource Management (OCRM) to conduct periodic evaluations of state coastal management program implementation. This review examined how the State of Florida has implemented and enforced the Florida Coastal Management Program (FCMP), addressed the coastal management needs addressed in section 303(2)(A) through (K) of the CZMA, and adhered to the terms and conditions of the NOAA financial assistance awards the FCMP received between December 1999 through May 2004.

B. ACCOMPLISHMENTS

The Evaluation Team documented a number of areas where the FCMP improved its management of Florida's coastal resources. These include:

- 1. Program Re-location.** In July 2002 administration of the FCMP was moved from the Department of Community Affairs (DCA) to the Department of Environmental Protection (DEP). Since that time, management and administration have rapidly evolved into a well administered program, and it is to the credit of DEP leadership and the FCMP staff that such maturation has occurred in such a short period.
- 2. Program Focus.** In addition to being relocated to the DEP, the FCMP was required to reduce its overall staff size. The program showed great initiative in identifying its core program functions and in streamlining program administration. In cooperation with its networked partners, the FCMP identified four key program functions to implement the CZMA: Offshore Projects and Gulf of Mexico Program; FCMP Grant Management; FCMP Program Support; and, Project and Plan Review and the State Clearinghouse.
- 3. Florida Blueways.** Florida Blueways is a marine resource management project that Florida Marine Research Institute (FMRI) has been involved in over the last few years. The program, funded by the FCMP, assesses current management scenarios and programs within Florida in order to evaluate their strengths and weaknesses, fill in gaps, and ultimately join existing management programs together under a single, unified management network.

4. **Beach Warning Flags Program.** To minimize the risks of drowning or serious injury, the Florida Department of Environmental Protection has worked with the Florida Beach Patrol Chiefs Association, the United States Lifesaving Association, and the International Lifesaving Federation to develop a uniform warning flag program for use by Florida's beachfront communities. The Department's new beach warning flag program uses the colors adopted by the International Lifesaving Federation, with symbols added to clarify the meaning of the flags. The program also includes the placement of interpretive signs along the beach to explain the meaning of each flag used in the warning system.
5. **Efficient Transportation Decision Making.** Florida's Efficient Transportation Decision Making (ETDM) process brings agency interaction into the early stages of transportation planning so that avoidance and minimization strategies are identified much earlier and cost impacts for those strategies can be built into the cost feasible Long-Range Transportation Plan (LRTP). This is well before funding decisions are made and permit application occurs. The FCMP was involved early on in the pilot project and was actively involved in the development of the approach.
6. **Local Comprehensive Planning and Technical Assistance.** The FCMP assists local governments in dealing with cumulative and secondary impacts of development in cooperation with the Department of Community Affairs (DCA) Division of Community Planning. The Division is primarily responsible for the various growth management initiatives of the state, specifically the Areas of Critical State Concern program and the local government comprehensive planning process. These activities are authorized in statutes that are a part of the approved coastal program.
7. **Waterfronts Florida.** The Waterfronts Florida Partnership, launched by the Florida Coastal Management Program in 1997, has been helping to chart a new course for its participating communities. The program was created to provide support, training, innovative technical assistance, and limited financial assistance to communities striving to revitalize and renew interest in their waterfront district, areas which have a tradition of water-dependent vitality.
8. **Sustainable Beaches Summit.** Over 150 professionals gathered March 29 through 31, 2004 for the inaugural Sustainable Beaches Summit. The results of the meeting and the outcomes of the Summit sessions culminated in a declaration of action by the Clean Beaches Council. An official follow-up to the results of this meeting will take place at the 2005 Sustainable Beaches Summit, tentatively planned for the fall of that year.

9. **Sea Turtle Data Management System.** The FCMP has assisted the Palm Beach County Department of Environmental Resources Management in a volunteer project to consistently survey beaches throughout the nesting season and to provide education to property owners and the public to help reduce impacts to nesting turtles and their nests. The FCMP has also supported the development of the Sea Turtle Data Management System, a web-based database that allows volunteers and staff to enter their survey data and provides the County with accessible data County-wide.
10. **Local Projects.** The FCMP continues to provide funding to local governments and to State agencies for local projects. During the site visit the team visited several sites representative of the types of projects being carried out. These included projects in Islamorada, Monroe County, St. Lucie County parks, and Vilano Beach, St. Johns County.
11. **Interaction with Florida's National Estuarine Research Reserves.** The FCMP has worked with the three Florida National Estuarine Research Reserves as they develop their Coastal Training Programs (CTP). The three Florida CTP coordinators are working together with the FCMP to develop a Florida Coastal Training Program which contains common elements and themes for all of Florida where suitable and which is site specific where appropriate.
12. **Outreach.** The FCMP is active in education and outreach efforts which include recently redesigning a web-site, issuing a newsletter, and developing initiatives for public education and outreach. Examples of outreach efforts include beach management, seagrass management, sustainable development, and the clean marina program.

C. SUMMARY OF RECOMMENDATIONS

In addition to the significant accomplishments described above, OCRM has identified areas where the program may be improved. These evaluation findings do not contain a recommendation which takes the form of a Necessary Action and is mandatory. Six (6) recommendations take the form of Program Suggestions and are not mandatory.

Finding: Coordination. The need for a stronger coordinating role across the agencies by the FCMP for coastal matters was a continuing theme of discussion during site visit meetings. This is not to say that a considerable amount of coordination and mutual interaction does not take place already. The thrust was more to first consider how best to involve the networked agencies to commit to join a viable, interactive and interacting group to focus jointly on coastal issues and then to get the group to actually meet.

1. PROGRAM SUGGESTION. The FCMP should define priority coastal areas and issues where coordination would be beneficial and establish a mechanism to facilitate dialogue with the networked agencies on appropriate areas and issues. A contract could be let to set up a process, looking across the board at the whole permitting process from initial pre-application (including education regarding process for the applicant) through permit compliance that focuses on all agencies involved, not just the primary permitting agency (a possible 309 project).

Finding: Outreach. While implementation of the regulations which underpin the FCMP is not an issue, the process of regulation has always been difficult to define in a clear and concise way to the permit applicant. There are many regulatory authorities involved in any permit and an applicant must somehow deal with all of them in promoting a project.

2. PROGRAM SUGGESTION. The FCMP is encouraged to develop user friendly documents explaining how the program is now constituted, how the processes now work and how Florida's coastal resources are being managed.

Finding: Program Change. The FCMP consists of a network of 23 Florida Statutes administered by eight state agencies and four of the five water management districts. Every legislative session results in some form of change to these statutes such that the program change process is required, even though the element of the statute in question does not relate to coastal management. It would be desirable to identify the enforceable laws of the statutes so that attention could be focused on changes to those elements which directly affect the implementation of the FCMP.

3. PROGRAM SUGGESTION. OCRM and FCMP should work to better articulate the enforceable policies of the program to facilitate federal review of program changes so that analyses may be focused on programmatic elements of the laws underpinning the FCMP.

Finding: Supporting New Initiatives for the Long Term. As the basic implementation of the FCMP was reconfigured in the DEP, a number of elements, projects and programs of the FCMP were placed on the "back burner" as procedures and processes were realigned to fit the new structure.

4. PROGRAM SUGGESTION. The FCMP is encouraged to revisit previous and emerging coastal issues to expand program coverage and initiatives to reconsider their importance to overall FCMP implementation. As the FCMP considers these initiatives contracting for their accomplishment, or other approaches, such as the use of other agencies, regional groups, or localities should be considered for funding through its grant program.

Finding: Information Management

Initiatives. Florida has taken great strides in developing electronic on-line systems to facilitate the permit process and in the development of large databases to support management decisionmaking. Permits are tracked geographically and enforcement and compliance is sophisticated in the use of GIS. However, the various permitting databases for permitting, enforcement and monitoring among the FCMP agencies are not compatible at this point.

5. PROGRAM SUGGESTION. The FCMP is encouraged to continue the development of electronic permit processing and to further streamline its processes through the use of information technology.

Finding: Federal Consistency. As a result of the site-visit phase of the evaluation of the Florida Coastal Management Program (FCMP), a question was raised about the state's application of the CZMA federal consistency requirement related to federal agency activities under 16 USC 1456(c)(1) and NOAA's implementing regulations at 15 CFR part 930, subpart C.

6. PROGRAM SUGGESTION. The FCMP should clarify the Federal consistency requirements and State review process regarding Federal agency consistency determinations when a Federal law other than the CZMA requires the Federal agency to obtain a State permit.

I. INTRODUCTION

Section 312 of the Coastal Zone Management Act (CZMA) of 1972, as amended, requires NOAA's Office of Ocean and Coastal Resource Management (OCRM) to conduct a continuing review of the performance of States and Territories with Federally approved Coastal Management Programs. This document sets forth the evaluation findings of the Director of OCRM with respect to the Florida Coastal Management Program (FCMP) for the period from December 1999 through May 2004. This document includes an Executive Summary, Program Review Procedures, Accomplishments, Review Findings and Recommendations, and a Conclusion.

The recommendations made by this evaluation appear in **bold** type and follow the section of the findings in which the facts relative to the recommendation are discussed. The recommendations may be of two types:

- (1) **Necessary Actions** address programmatic requirements of the CZMA regulations and of the FCMP approved by NOAA, and must be carried out by the date(s) specified. There are no Necessary Actions within this document.
- (2) **Program Suggestions** denote actions which OCRM believes would improve the management and operations of the Program, but which are not mandatory at this time.

If no specific dates are given for carrying out a Program Suggestion or a Necessary Action, the State is expected to have successfully implemented the Necessary Action or Program Suggestion by the time of the next section 312 evaluation. The findings contained within this document will be considered by NOAA in making future financial assistance award decisions relative to the Florida Coastal Management Program.

II. PROGRAM REVIEW PROCEDURES

The Office of Ocean and Coastal Resource Management (OCRM) evaluation staff began review of the FCMP in April 2004. This included an analysis of the approved FCMP, previous and current award documents and performance reports, previous evaluation findings, correspondence relating to the FCMP, and other relevant information. The OCRM National Policy and Evaluation Division (NPED) and the Coastal Programs Division (CPD) staff coordinated to determine the issues which would become the main focus of the evaluation. The Evaluation Team analyzed the State's responses to these specific issues and used them as primary sources of information on the FCMP's operation.

The Evaluation Team gave special emphasis to the following issues:

- * The effectiveness of the Department of Environmental Protection (DEP) and the other networked agencies in monitoring and enforcing the core authorities which form the legal basis of the FCMP;
- * Implementation of Federal consistency by DEP and other networked agencies;
- * Effectiveness of the local grant assistance programs in enabling coastal communities to forward the goals of the FCMP;
- * Public and local participation and outreach efforts;
- * Status of regional interagency coordination, including the National Estuary Programs and the National Estuarine Research Reserve Programs; and,
- * Changes to core statutory and regulatory provisions of the FCMP.

John H. McLeod, Evaluation Team Leader, NPED; Laurie Rounds Coastal Management Specialist CPD and Paul Klaren, of the Oregon Coastal Management Program, conducted a site visit from May 17 through 21, 2004. The Evaluation Site Visit Team met with representatives of State and local governments, Federal agencies, interest group representatives, and private citizens during the site visit.

A Public Meeting was held on May 17, 2004, at 6:00 p.m. at the Douglas Building, Conference Room A, 3900 Commonwealth Boulevard, Tallahassee, Florida. (**Appendix A** lists

persons contacted in connection with the evaluation; Appendix **B** lists persons who attended the Public Meeting; Appendix **C** contains NOAA's response to written comments received.)

The FCMP staff were instrumental in setting up meetings and arranging logistics for the evaluation site visit. Their support is gratefully acknowledged.

III. PROGRAM ACCOMPLISHMENTS

The true strength of any program lies in its supporting staff and Florida is fortunate in this regard. It is through their efforts that the significant accomplishments documented here came to fruition. During the period of time covered by this evaluation, December 1999 through May 2004, the Florida Coastal Management Program has addressed many coastal issues. The results detailed below would not have occurred without committed leadership and staff. Ultimately, the actions of FCMP personnel led to the specific accomplishments detailed below.

A) **Program Re-location.**

In July 2002 administration of the FCMP was moved from the Department of Community Affairs (DCA) to the Department of Environmental Protection (DEP). Since that time, management and administration have rapidly evolved into a well administered program, and it is to the credit of DEP leadership and the FCMP staff that such maturation has occurred in such a short period. It should be noted that this occurred with fewer staff than the program previously enjoyed so that some existing projects and program endeavors had to be limited or trimmed. It should also be noted that the accomplishments cited below occurred during a time when the administration of the FCMP was under stress due to the fluidity of its changing organizational setting.

Initially, changes to statutes and regulations had to be made to carry out the new realignment. Consistency, which had been moved from the Governor's Office several years earlier to DCA, had to be moved to DEP and merged with the DEP elements of the function. Other procedural elements of the FCMP had to be streamlined to carry out required tasks with fewer supporting staff. The end result, after a period of some initial stress, is a more efficient approach to permitting and consistency processes.

Now housed in the DEP's Office of Intergovernmental Programs (OIP), the FCMP Program Administrator directly supervises Offshore Projects (such as pipelines, ocean disposal, and artificial reef deployment), Gulf of Mexico Program participation, FCMP grant management, and FCMP support activities (such as beach access signage, the Beach Flag Program, education and outreach). Project and Plan Review and State Clearinghouse are managed by the OIP Director. It is this section that performs comprehensive plan reviews, amendments and updates for the DEP and manages the clearinghouse function for all permits assuring consistency with Florida's laws. As a result of the move from DCA to DEP the clearing house function was streamlined and is now functioning in a methodical, predictable manner.

B) Program Focus.

In addition to relocating to the DEP, the State reduced the Program's overall staff size. The program showed great initiative in identifying its core program functions and in streamlining program administration. In cooperation with its networked partners, the FCMP identified four key program functions to implement the CZMA:

1. Offshore Projects and Gulf of Mexico Program.

The Florida DEP represents the Governor on outer continental shelf issues and serves as the state's designated point of contact under the Outer Continental Shelf Lands Act. The transfer of the FCMP to the DEP helped streamline offshore project reviews. The FCMP provides staff support for this responsibility and contributes to the development of the state's position regarding mineral activities on the outer continental shelf. The FCMP is also involved in the EPA Gulf of Mexico Program and in other offshore issues.

2. FCMP Grant Management.

The FCMP devoted significant effort when the program was initially transferred to DEP to streamline and revise the grant program. The FCMP completed a survey of past grant applicants (Local governments, non-profit organizations, and State agencies) to gain feedback on the program. The survey revealed a high level of satisfaction by local governments and non-profit organizations; however State agencies did not indicate a high level of satisfaction with the ability of the grant program to support their priorities and needs. State agencies indicated that although they had projects that would benefit from grant funds, they did not feel the program was an effective means of funding. Both local and state agencies indicated a need for larger grant awards than what was previously offered. Upon review of the survey results, the FCMP determined that the grant program was an effective way to accomplish implementation but that the impact of individual grant projects should be increased. They also determined a need to diversify the purposes of grant funded projects and increase coordination and involvement in statewide coastal management issues.

The FCMP supports local implementation of the program through the Coastal Partnerships Initiative (CPI). The CPI focuses on local level projects that encourage government and citizen groups to enhance and protect their local coastal resources and provides technical assistance, site designation, training, and financial support to local communities within four issues areas: remarkable coastal places; access to coastal resources; community stewardship; and, working waterfronts. Applications are evaluated and ranked by an interagency committee to ensure the selection of a range of projects that will best meet local and state goals for coastal protection, management, and economic opportunity. A number of proposals are selected annually and the FCMP works with the recipient and local community in an active partnership.

In 2003, the FCMP expanded their grant program to develop additional partnerships with networked state agencies. The FCMP consulted with an interagency committee to develop projects and activities that protect coastal resources, further the policy objectives of the CZMA, complement other state and federal resource programs, and meet or reduce unmet needs. This approach will enable the FCMP to enhance statewide coordination of the program and coastal resource management. The program plans to develop a grant tracking database to further streamline and improve administration.

3. *FCMP Program Support.*

The program support unit assists all other units in the Office of Intergovernmental Programs and partner agencies and programs by maintaining the legal framework of the FCMP, providing consultation and training in federal consistency procedures, producing state-of-the-coast information and other program information materials, and managing special activities, such as the beach access sign program and outreach.

In 2002, the State Administrative Code which prescribes procedures for the award of coastal grants was revised. The revisions and new rules clarify existing language, streamline review procedures, avoid conflicts with other laws, provide for a wider range of projects to be funded, and provide procedures for the award of grants to State agencies and Water Management Districts.

4. *Project and Plan Review and State Clearinghouse.*

The Florida State Clearinghouse moved with the FCMP to the DEP. The State Clearinghouse coordinates the review of consistency determinations and certifications with eight state agencies and five water management districts. Activities include the review of consistency determinations and certifications, resolution of consistency related issues with federal agencies, applicants, or other states, resolution of conflicts among state agencies and the Governor's Office, orientation and training of state, federal, and local agencies in state clearing house procedures, and maintaining a database for processing, routing, and tracking all projects subject to review. Following the program's transfer, the Clearinghouse database was revised to improve its operating capabilities and will continue to be enhanced to improve access and functionality. In July and August of 2003, the FCMP conducted a series of meetings with participating agencies to discuss Clearinghouse coordination procedures, agency issues, and the federal consistency process.

C) Florida Blueways.

Florida Blueways is a marine resource management project that Florida Marine Research Institute (FMRI) has been involved in over the last few years. The program, funded by the FCMP, assesses current management scenarios and programs within Florida in order to evaluate

their strengths and weaknesses, fill in gaps, and ultimately join existing management programs together under a single, unified management network. Florida Blueways addresses both the science and human use aspects in the environment and their subsequent impacts and roles within ocean management. The goal of Florida Blueways is to develop innovative methods, tools, partnerships, and processes to address ecological and sociological concerns about coastal and ocean systems.

The Florida Blueways project is being tested in Charlotte Harbor. The Florida Blueways process builds on landscape ecology principles, gap analysis tools, and GIS-based modeling techniques to describe competing opportunities and user conflicts in coastal and ocean systems. The heart of the current characterization effort is a mapping process that will paint a data-driven picture of competing opportunities in Charlotte Harbor. Although this picture will address certain social and economic considerations, FMRI must devise new ways of modeling and investigating these considerations. For example, scale has been a confounding influence on the characterization process and continues to pose a significant methodological challenge. In the end, the long-term goal of Florida Blueways is to graphically articulate the inherent spatial connectivity of Florida's marine resources, coastal activities (human use), and related stakeholders.

D) Beach Warning Flags Program.

The safety and enjoyment of Florida's public beaches are affected by changes in tide and surf conditions. To minimize the risks of drowning or serious injury, the Florida Department of Environmental Protection has worked with the Florida Beach Patrol Chiefs Association, the United States Lifesaving Association, and the International Lifesaving Federation to develop a uniform warning flag program for use by Florida's beachfront communities. Warning flags are posted by many coastal communities, but the flags used to identify different tide and surf conditions vary from place to place. Many residents and visitors travel to different parts of the state to enjoy the public beaches. Differences in flag colors, size and symbols can confuse beach goers, thereby decreasing the effectiveness of efforts to improve public safety.

The Department's new beach warning flag program uses the colors adopted by the International Lifesaving Federation, with symbols added to clarify the meaning of the flags. The program also includes the placement of interpretive signs along the beach to explain the meaning of each flag used in the warning system. To the extent of available funds, the warning flags and interpretive signs are provided free of charge to local governments that provide public beach access. The communities that receive the free warning flags and interpretive signs are responsible for the installation, proper use, and maintenance of the flags and signs. Local governments with life-guarded public beaches are strongly encouraged to participate in the uniform warning flag program by adopting the same standard colors used by the Department and the International Federation. Local governments can request any number of warning flags and interpretive signs needed to place flags and a sign at each public beach access location identified by the local

government. Each year, flags and signs will be provided by the Florida Coastal Management Program until the funds reserved for the program have been expended.

E) Efficient Transportation Decision Making.

Florida's Efficient Transportation Decision Making (ETDM) process brings agency interaction into the early stages of transportation planning so that avoidance and minimization strategies are identified much earlier and cost impacts for those strategies can be built into the Long-Range Transportation Plan (LRTP). This is well before funding decisions are made and permit application occurs. FCMP was involved early on in this pilot project and is supportive of and actively involved in the development of the approach.

ETDM represents the Florida Department of Transportation (FDOT) response to the Transportation Equity Act for the 21st Century which calls for a streamlined approach for conducting National Environmental Protection Act (NEPA) reviews. Working with the Federal Highway Administration (FHWA), the Federal Transit Administration and other Federal, State and local agencies, FDOT developed ETDM to refine and improve methodologies for effecting improved transportation decisions while complying with all Federal and State environmental regulations

The existing process involves metropolitan planning organizations and FDOT, which develop a localized LRTP and Transportation Improvement Program, to be approved by the FHWA. Highest priority projects enter the 5th year of the Five Year Work Program and lower priority projects fall beyond the 5th year of the work program. Project development and environmental review work then begins, thus initiating the NEPA review. Such a process is characterized by sequential, dependent actions, long time-lines with gaps, late agency involvement, and a risk of late project changes.

The ETDM process features concurrent actions, early identification of critical issues, interactive planning, shortened time-lines, efficiencies gained from technology, and early approvals linked to NEPA reviews. With ETDM and the early involvement of the agencies, characteristics of the previous process are ameliorated. Agency interaction occurs with FDOT and its consultants during project development. This leads to adjustment in project design concepts to satisfy permitting requirements. Construction permits are consequently issued concurrently with the NEPA Record of Decision at completion of the project development phase. Project final design and right-of-way acquisition is then able to proceed with minimized risk of future agency delay.

F) Local Comprehensive Planning and Technical Assistance.

The Department of Community Affairs (DCA) Division of Community Planning provides assistance to local governments in dealing with cumulative and secondary impacts of development. The Division is primarily responsible for the various growth management initiatives of the State, specifically the Areas of Critical State Concern (ACSC) program and the local government comprehensive planning process. These activities are authorized in statutes that are a part of the approved FCMP.

The DCA provides assistance to local governments through various mechanisms to support their efforts to address impacts of growth in ACSCs. For example, the Florida Keys, Monroe County, was defined an Area of Critical State Concern in 1993. This codified a list of policies, land development ordinances, and density and permitting requirements that must be incorporated in local plans. A DEP district office was also establish in Marathon to carry out the regulatory programs for Monroe County. In this process, the local plan must mirror or be more restrictive than the State plan. Before a local government can become involved in the permit review process, the local government must adopt the policies in the state plan. To date the County plan and 5 municipal plans have been incorporated, allowing these entities to review local permits. Permits occurring in areas not covered by an approved plan only fall under State regulation. Essentially this puts an additional level of review on any proposed project.

DEP and DCA Staff review all local development projects within the designated area and may appeal to the Administration Commission any local development orders that are inconsistent with State guidelines. The DCA Division of Community Planning is responsible for reviewing and approving amendments to comprehensive plans and land development regulations proposed by local governments within the designated area. The Florida Keys ACSC work program, adopted by the Governor and Cabinet in 1997, addressed the following issues: wastewater, stormwater, cesspools, habitat protection, carrying capacity, and affordable housing. Due to the large proportion of Federally funded projects in the Florida Keys, most projects are reviewed for federal consistency through the FCMP. The FCMP is able to review projects for consistency with the local comprehensive plan developed through the state guidelines for the ACSC.

The DCA also assists Waterfronts Florida designated communities as they develop revitalization plans and community activities. DCA works with newly-designated Waterfronts Florida Communities to develop and implement waterfront revitalization activities, including technical support, meetings, travel, and workshops. Additional information about the Waterfronts Florida program can be found in Section G of this document.

The DCA performs activities necessary for interagency coordination of federal consistency review. The consistency review process includes regional planning councils and local governments, who participate by advising the DCA on the impact of proposed Federal actions on local and regional land planning efforts. The information is used by DCA in development of a consistency recommendation provided to the DEP. The Division of Community Planning coordinates the DCA's participation and ensures that Federal activities that

impact land or water uses or natural resources of the State are consistent with the enforceable policies implemented by DCA.

G) Waterfronts Florida.

The Waterfronts Florida Partnership, launched by the FCMP in 1997, has been helping to chart a new course for its participating communities. The program was created to provide support, training, innovative technical assistance, and limited financial assistance to communities striving to revitalize and renew interest in their waterfront district areas which have a tradition of water-dependent vitality.

The DCA is the lead agency for the Waterfronts Florida Partnership. Waterfront revitalization encompasses environmental resource protection, public access, retention of viable traditional waterfront economies, and hazard mitigation. Between 1997 and 2001, the DCA designated nine Waterfronts Florida Partnership Communities, each of which received two years of technical and financial assistance. So far, the results are impressive: nearly 7,000 hours of volunteer services; \$143,362 in private donations; and \$7.4 million in other public investment that resulted in 16 capital project completions.

Waterfronts Florida communities are Mayport (Duval County); Historic St. Andrews (Bay County); San Carlos Island (Lee County); Vilano Beach (St. Johns County); Cortez (Manatee County); Oak Hill (Volusia County); Panacea (Wakulla County), Old Homosassa (Citrus County); and Port Salerno (Martin County). On September 19, 2003, four new communities were designated to join the Waterfronts Florida program: the City of Apalachicola in partnership with the Apalachicola Bay Chamber of Commerce, the City of Crystal River for the Kings Bay Waterfront, the City of Daytona Beach in partnership with the Daytona Beach Partnership, and the City of Melbourne for the Olde Eau Gallie Waterfront.

H) Sustainable Beaches Summit.

Over 150 professionals gathered March 29 through 31, 2004 for the inaugural Sustainable Beaches Summit. Co-hosted by the Clean Beaches Council and the Walton County Tourist Development Council, the meeting was quite successful in bringing together a diverse group of beach professionals and in furthering dialogue on important coastal issues. The first official session of the Summit was the opening plenary session, which included a panel on Valuing Sustainable Beaches, and the first luncheon featured a session on U.S. ocean policy. The remainder of the meeting focused on a variety of sessions related to water, monitoring and mapping, sand and sediments, tourism and policy, and education and outreach. There was also time built into the agenda to allow for informal networking and relationship-building among the attendees. The results of the meeting and the outcomes of the Summit sessions (as recorded by note-takers in each session) culminated in a declaration of action by the Clean Beaches Council.

An official follow-up to the results of this meeting will take place at the 2005 Sustainable Beaches Summit, tentatively planned for the fall of that year.

I) Sea Turtle Data Management System.

The FCMP assisted the Palm Beach County Department of Environmental Resources Management (DERM) in a volunteer project to consistently survey beaches throughout the sea turtle nesting season and to provide education to property owners and the public to help reduce impacts to nesting turtles and their nests. Palm Beach County beaches provide critical nesting habitat for two species of endangered sea turtles, the green and the leatherback turtles, and serve as one of the largest nesting habitats for the loggerhead sea turtle in the western hemisphere. The 45 miles of beaches support approximately 21% of loggerhead nests, 25% of green turtle nests, and 42% of leatherback turtle nests in the State. Due to temporal and spatial variations associated with sea turtle nesting data, it is important to have consistent surveys throughout the nesting season in order to collect data at a level of accuracy considered sufficient for making sound management decisions. The Sea Turtle Volunteer Monitoring Program is now in its fifth year of operation and through the program the County has been able to consistently survey 25% of their beaches. In 2002 it received a National Association of Counties award for innovation. The FCMP has provided support for the coordination, training, and educational materials needed for the program.

The FCMP also supported the development of the Sea Turtle Data Management System, a web-based database that allows volunteers and staff to enter their survey data and provides Palm Beach County with accessible data County-wide. The system allows sea turtle volunteers and permit holders statewide to enter and manage their data via the Internet. Summarized information from the database can also be accessed by the public. Currently in the testing stages, the web-based data management system will be used by DERM, members of the Sea Turtle Monitoring Program, and at least five sentinel sea turtle monitoring programs during the 2004 nesting season. Based on data from the sentinel beaches, researchers will be able to evaluate the progress of the nesting season statewide, as well as the usefulness of the web-based data management system. After the testing phase, the web-based system will be available for use by any sea turtle monitoring program in Florida. The FCMP provided support for computers and training required by the sentinel groups.

J) Local Projects.

The FCMP continues to provide funding to local governments and to State agencies for local projects. During the site visit the team visited several sites representative of the types of

projects being carried out. These included projects in Islamorada, Monroe County, St. Lucie County parks, and Vilano Beach, St. Johns County.

Implementation of Lignumvitae Key Submerged Lands Restoration Plan

The FCMP has developed a partnership with the Division of Recreation and Parks to address the need for restoration of submerged lands. The Lignumvitae Key Submerged Lands Management Area is located in Islamorada, Monroe County. It encompasses the submerged lands of the Lignumvitae Key Botanical State Park and the Lignumvitae Aquatic Preserve. The goal of the restoration plan is to integrate restoration into the management program to increase habitat recovery and ecological benefits, reduce peripheral deterioration, reduce loss of resources at injury sites, and raise awareness of seagrass protection. Through funding from the FCMP, the groundwork for a long-term submerged lands restoration and protection program will be completed including:

- * identification and characterization of seagrass and hardbottom damaged areas for organized tracking;
- * development of criteria to rank and prioritize damaged areas for restoration;
- * building upon existing resource protection mechanisms including channel marking, zoning, enforcement and education; and,
- * enhancing coordination with the Florida Keys National Marine Sanctuary.

Construction of Dune Walkovers at John Brooks and Pepper Parks

FCMP provided funding for the construction of dune crossovers at John Brooks Park and Pepper Park in St. Lucie County. John Brooks Park is a 407 acre conservation area located on South Hutchinson Island. Dune restoration activities include planting of sea oats and constructing a dune crossover. The dune crossover directs access away from re-vegetated dunes and provides public access to the beach while protecting existing dune vegetation. Pepper Park is located on North Hutchinson Island and provides 2,500 feet of beach access. The dune vegetation at both of these parks provides necessary nesting habitat for endangered sea turtles, protective habitat for endangered dune mice, and habitat for numerous wading bird species.

Vilano Beach Waterfronts Florida Community Partnership

Vilano Beach, St. Johns County was designated a Waterfronts Florida Community in 1999. Vilano Beach is on the coastal barrier island north of St. Augustine Inlet in one of the

fastest growing counties in the State. The members of Vilano Beach Waterfronts Florida Community Partnership have worked through the Waterfronts Florida program to create a vision for future managed growth for their community. The vision is to create a pedestrian friendly, vital, lively, sustainable town center that preserves the small beach town community character and celebrates the unique ocean and river waterfronts and their environmental habitat and recreational characters. Projects accomplished or underway include a conceptual town center design, a nature greenway boardwalk, gateway landscaping and signage, construction of two waterfront pavilions which anchor the ends of the town to the Inlet and to the Ocean, improvements to an existing fishing pier, and a stormwater management plan. The Vilano Beach Waterfronts Community was recently selected as a winner of the Council for Sustainable Florida 2002 Award for its efforts in promoting and expanding sustainable practices and programs in Florida.

K) Interaction with Florida's National Estuarine Research Reserves.

The FCMP has worked with the three Florida National Estuarine Research Reserves (NERR) as they develop their Coastal Training Programs (CTP). The three Florida CTP coordinators are working together with the FCMP to develop a Florida Coastal Training Program which contains common elements and themes for all of Florida where suitable and which is site specific where appropriate. The development of the CTP is a national initiative similar to the System Wide Monitoring Program (SWMP) and is supported by the National Estuarine Research Reserve Association and NOAA's Estuarine Research Reserve Division of OCRM.

Florida's NERRs, Apalachicola, Rookery Bay, and the Guana - Tolomato - Matanzas Rivers System, are administered through the DEP's Office of Coastal and Aquatic Managed Areas (CAMA), which manages all of the State's aquatic preserves. Other CAMA initiatives include the Marine Protected Areas (MPA), work to identify and protect coral reefs [which currently focuses on reefs from Biscayne Bay north (areas which have no current designation)] to define reef areas where something is happening and then develop a plan of protection, and the conservation and management of sea grasses.

Many of Florida's MPAs have been in place for decades and are a tool for good management. Part of the rationale for their creation is that no activity can take place that would affect the water quality existing at the time of designation ("cannot degrade the water from the time of designation"). The problem is that no work was done to establish what that water quality was when they were created. CAMA has developed an aggressive program to define current water quality conditions using the SWMP process and approach of the NERRs. State and CZM funding has been directed to the purchase and placement of water quality monitoring devices that will form a network throughout the Florida system of protected areas.

L) Outreach.

The FCMP is active in education and outreach efforts, which include recently redesigning a web-site, issuing a newsletter, and developing initiatives for public education and outreach. Examples of outreach efforts include beach management, seagrass management, sustainable development, and the clean marina program.

Beach Management

In 2003 the FCMP partnered with the DEP Bureau of Beaches and Wetland Resources to develop print, electronic and multimedia products to convey the unique nature of coastal systems, the various programs in the State that preserve, protect, and enhance the coastal system, and ways the public can participate in the protection of the coastal system

Seagrass Management

Much of Florida's natural seagrass coverage has been lost over the last 50 years and degradation continues at unmoderated rates. Since 2000, the FCMP has partnered with the Florida Marine Research Institute (FMRI) and other agencies to develop a comprehensive outreach program designed to increase appreciation of the value of healthy seagrass beds and conservation practices. In June 2000, the FCMP co-sponsored an executive level management meeting that addressed issues and management responses related to seagrass sustainability. This meeting of seagrass experts and resource managers identified several pressing needs. Education and public awareness, coordination, and consensus building were identified as major needs. Since that meeting, the FCMP and FMRI have completed: 1) an educational brochure; 2) a web-based inventory of seagrass conservation projects called the Seagrass Conservation Information System at <http://www.floridamarine.org/seagrass>; 3) a "Seagrass Managers Tool Kit" describing a wide array of best management practices; and, 4) a State-wide comprehensive plan for seagrass conservation.

Sustainable Development

Since 2001, the FCMP has partnered with the Council for Sustainable Florida, a statewide coalition of business, environmental, governmental, and education leaders. In 2001, best practices for managing, protecting, and restoring Florida's coastal areas were identified and promoted at statewide conferences. The document, Waterfronts Florida: Key Elements in Building Coastal Communities was released in June 2002 (<http://www.dca.state.fl.us/fdcp/DCP/waterfronts/waterfrontsreport.pdf>). A recognition program was also established for those businesses and communities implementing the practices for community stewardship. There were 33 exemplary initiatives recognized. In 2003 the FCMP and the Council for Sustainable Florida partnered to expand the Council's Sharing Success Program to document and communicate best practices for water management. Practices include pollution prevention, waste water management, water conservation, and watershed planning.

Clean Marina Program

Florida has 2,000 marina facilities, 940,000 registered vessels, and an additional 400,000 vessels visiting Florida annually. The Clean Marina Program was designed and developed in partnership with the Marina Industries Association of Florida and its local chapters, EPA, the Florida Department of Environmental Protection, Sea Grant extension agents, the Coast Guard, and others. With funding from the FCMP, several educational projects are implemented for marina and boatyard operators as well as boaters. FCMP funds were used to implement a multi-component approach of marketing, technical assistance, workshops and distance learning strategies. Marketing strategies were developed to encourage participation by marinas, boatyards, and boaters to adopt practices that eliminate or reduce pollution. Technical assistance is available on request by marinas and boatyards from program partners. Web-based distance learning strategies provide additional access opportunities to those interested in participating over a period of time. In 2003, there were over 61 marinas and nine boatyards that earned Clean Marina designation. Over 150 marinas and boatyards have attended workshops and are working towards designation.

IV. REVIEW FINDINGS AND RECOMMENDATIONS

The Office of Ocean and Coastal Resource Management (OCRM) finds that the FCMP is adhering to its approved coastal management program; implementing and enforcing the FCMP in a satisfactory manner; and adhering to the programmatic terms of the NOAA financial assistance awards. The State continues to address national coastal management needs identified in CZMA Section 303 (2) (A) through (K). The previous evaluation of Florida's performance in implementing the FCMP resulted in three (3) program suggestions. Since that evaluation, the move of the FCMP changed the relevant issues so as to primarily negate those recommendations. (See Appendix D for a discussion of each finding, recommendation, and response and for reference to the response within this document where appropriate.)

A) Coordination.

The need for a stronger coordinating role across the agencies by the FCMP for coastal matters was a continuing theme of discussion during site visit meetings. This is not to say that a considerable amount of coordination and interaction does not take place already. The thrust was more to first consider how best to involve the appropriate staff within the networked agencies into a viable, interactive and interacting partnership to focus jointly on coastal issues through regular meetings. In one discussion it was noted that "DEP, DCA, and FWCC (and other networked agencies) are in a better position to coordinate than they have been in the past and that it is timely to facilitate partnerships where they make sense.¹"

Some commenters thought coordination on permit review is necessary. One agency noted that review on a case-by-case basis was the norm and suggested it needed to reassess how the agency coordinates on permit reviews. The general thrust was to develop a proactive approach to coordinate the permitting process as well as on policy development, especially to address emerging issues. The FCMP needs to identify priority areas such as permitting in coastal waters (WMDs, beaches and shores, storm water, CAMA) and then facilitate relevant issues. Beyond coastal permitting (the permit process) there is a general need to identify where coordination is needed on all coastal areas in a proactive manner. Rather than bring commenting groups in at the permitting stage, they should be brought in at the pre-application meeting point so that issues can be put on the table up front.

In the early years of FCMP implementation, an Interagency Management Committee was created, consisting of the Department Secretaries, to meet on a regular basis to assure that coordination in program implementation would occur. This team was supported by a staff level Interagency Management Group which met on a more regular basis. While the higher level

¹ Comments made during meetings conducted during the FCMP evaluation site visit.

Committee infrequently met and could be considered to be less than a success, the staff level group met on a fairly regular basis and did carry out an important coordination function for the program. One problem with the coordination process is that it was codified into the FCMP and became a requirement in its own right, rather than a vehicle to facilitate interaction and coordination across a broad range of topics. It is not recommended that the State return to this previous practice. However, it might prove useful to revisit the concept.

Nevertheless, interagency coordination remains a needed function. There are issues that will require ongoing involvement and discussion:

- * Aquaculture [The Florida Offshore Aquaculture (FOA) group's proposal to net-pen in the Gulf has several agencies involved in permitting (Corps, EPA, Coast Guard). The State is involved through consistency process. The problem is that each agency looks only at the requirements of their permit function and deals with their requirements in isolation rather than as a regulatory suite of requirements to allow the best use of the resources.];
- * Exempted Fishing [Permits for research and public display have the potential to allow for a by-pass of the permit process.]; and,
- * Others.

PROGRAM SUGGESTION

1) The FCMP should define priority coastal areas and issues where coordination would be beneficial and establish a mechanism to facilitate dialogue with the networked agencies on appropriate areas and issues. A contract could be let to set up a process, looking across the board at the whole permitting process from initial pre-application (including education regarding process for the applicant) through permit compliance that focuses on all agencies involved, not just the primary permitting agency (a possible 309 project).

B) Outreach.

While implementation of the regulations which underpin the FCMP is not an issue, the process of regulation has always been difficult to define in a clear and concise way to the permit applicant. This has been exacerbated by the move of the Program to a new parent organization and through the streamlining of processes to expedite actions. Accordingly, as stated by one individual during the site visit, at times applicants may feel "jerked around" because they do not know the process and do not understand that consistency would be involved. There are "many, many regulatory authorities involved in any permit" and an applicant must somehow deal with all

of them in promoting a project. What may be needed is an effort to provide outreach materials for the general population which explains the process in a clear and non-bureaucratic manner so that applicants can know not only what must be done, but why it must be done.

PROGRAM SUGGESTION

2) The FCMP is encouraged to develop user friendly documents explaining how the program is now constituted, how the processes now work and how Florida's coastal resources are being managed.

C) Program Change.

The FCMP consists of a network of 23 Florida Statutes administered by eight state agencies and four of the five water management districts designed to ensure the wise use and protection of the state's water, cultural, historic, and biological resources; to minimize the state's vulnerability to coastal hazards; to ensure compliance with the state's growth management laws; to protect the state's transportation system, and to protect the state's proprietary interest as the owner of sovereign submerged lands. Every legislative session results in some form of change to these statutes such that the program change process is required, even though the element of the statute in question does not relate to coastal management. In a recent case, an element of a statute dealing with employee retirement was part of the program change package. It would be desirable to identify the most relevant enforceable laws of the statutes so that attention could be focused on changes to those elements which directly affect the implementation of the FCMP. This might decrease the time needed to prepare program change submissions and would facilitate the Federal program change review process.

PROGRAM SUGGESTION

3) OCRM and FCMP should work to better articulate the enforceable policies of the program to facilitate federal review of program changes so that analyses may be focused on programmatic elements of the laws underpinning the FCMP.

D) Supporting New Initiatives for the Long Term.

As the basic implementation of the FCMP was reconfigured in the DEP, a number of FCMP elements, projects and programs were placed on the "back burner" as procedures and processes were realigned to fit the new structure. Likewise, the streamlining of permit review processes, coupled with the limited staff remaining to carry out the procedural parts of the program required establishing implementation priorities, which would mean that some otherwise worthy elements of the program would not get much attention. This, coupled with issues that are

emerging in importance signals it may be time to revisit program initiatives and priorities to establish a fully functioning coastal management program.

Emerging issues include addressing the difference between jurisdictions regarding the placement and design of on the water signs for conservation areas, wake controls, no motor areas and the like. These signs currently are locally derived and placed with no adjacent area, regional or statewide interaction; some cohesive coordination is needed. Another issue is the aquaculture project to net-pin in the Gulf discussed above.

PROGRAM SUGGESTION

4) The FCMP is encouraged to revisit previous and emerging coastal issues to expand program coverage and initiatives to reconsider their importance to overall FCMP implementation. As the FCMP considers these initiatives, contracting for their accomplishment, or other approaches, such as the use of other agencies, regional groups, or localities should be considered for funding through its grant funds.

E) Information Management Initiatives.

Florida has taken great strides in developing electronic on-line systems to facilitate the permit process and in the development of large databases to support management decisionmaking. Permits are tracked geographically and enforcement and compliance is sophisticated in the use of GIS. However, the various permitting databases for permitting, enforcement and monitoring are not compatible at this point. The goal stated by several agencies is to become more electronic in the use and management of the permitting process. Ideally one would be able to draw up a site digitally, pull up a map, and look at the information. While some of the information and processes to do this exist, the system is a long way from being perfect. The DEP is working with the State Information Technology agency toward this end.

Another example of the use of technology lies within the Accomplishment section of this document. The Sea Turtle Data Management System is a direct application of information technologies to support the preservation of endangered species, advance knowledge of that species, and collect data on the species from a large area of the state. Likewise, in developing the Blue Ways report, data was gathered on power boat scarring, manatee protection zones, key ramps, protection zones, boating zones and the like. This data is available to be used by resource managers; the only question to be answered is how to best make it useful.

PROGRAM SUGGESTION

5) The FCMP is encouraged to continue the development of electronic permit processing and to further streamline its processes through the use of information technology.

F) Federal Consistency.

During the site-visit phase of the recent evaluation of the Florida Coastal Management Program (FCMP), questions were raised by representatives of the U.S. Navy and the Army Corps of Engineers (Corps) about the constitutionality of the CZMA. The concern was based on the agencies' view that the nature of the waiver of federal supremacy contained in the CZMA is "over broad." Questions were also raised about NOAA's implementing regulations at 15 CFR part 930, subpart C and a perceived failure to protect U.S. national security interests by subjecting the Navy's military readiness mission to improper review and regulation by states like Florida. Following the site-visits NOAA staff consulted a representative of the Navy which resulted in questions about Florida's application of the CZMA federal consistency requirement related to federal agency activities under 16 USC 1456(c)(1).

Based on the follow-up conversations between NOAA and the Navy, NOAA confirmed with Navy headquarters that the statements made at the site visit that the CZMA limited waiver of Federal supremacy is "over broad" or raises constitutional issues are not Navy positions. NOAA also confirmed that there appears to be a misunderstanding regarding how Federal consistency is being applied by Florida. The Navy and the Corps contend that NOAA's administration of the CZMA subjects federal agency activities to a higher standard than required by other federal law. Specifically, the Navy asserts that Florida was requiring the Navy to apply for and obtain the State's Environmental Resource Permit (ERP) before Florida could process or respond to the Navy's CZMA consistency determination. Florida asserts that it does not require federal agencies to apply for and obtain State permits as a prerequisite to process and respond to a federal agency's consistency determination. However, Florida has offered federal agencies the option of using the completed State ERP application as the consistency determination in an effort to streamline the FCMP review process.

In the CZMA, Congress chose to partially waive the supremacy of Federal law. NOAA's administration of the CZMA is consistent with this congressional intent and with long-standing statutory and regulatory provisions. The CZMA gives states an important role in Federal activities by requiring federal agencies to conduct their activities in a manner consistent to the maximum extent practicable with the enforceable policies of a state's federally approved CZMA program. The fundamental underpinning of the original CZMA and the 1990 CZMA amendments is that national coastal management objectives should be advanced by state decisions pursuant to Federally approved state laws, and that states are given a strong voice in all federal actions affecting the coastal zone. Therefore, federal agencies are not subject to a standard that is higher than other federal law; the CZMA is federal law that the agencies are subject to. The CZMA does not, however, provide states with the authority to require federal agencies to obtain

state permits.

Federal agencies are not subject to state regulation and do not have to apply for or obtain state permits unless required by federal law. The CZMA does not require Federal agencies to apply for or obtain state permits. 15 CFR § 930.39(e). This is long-standing agency interpretation of the CZMA. Therefore, a Federal agency need only provide a state with a consistency determination and accompanying information as described in NOAA's regulations at 15 CFR § 930.39. Further, a state may not delay the start of the 60-day CZMA review period for any reason, including failure to apply for or obtain state permits, if the federal agency has provided the information required by 15 CFR § 930.39. If a state were to do so, and not concur or object 60 days after the state received a Federal agency's consistency determination, then the federal agency may presume the state's concurrence, pursuant to 15 CFR § 930.41(a).

If a Federal law other than the CZMA requires a Federal agency to obtain a particular state permit, the application for and/or approval of the state permit is not considered supporting information required to begin the 60-day CZMA review period under 15 CFR § 930.41(a). Therefore, a federal agency need only provide a state with a consistency determination and accompanying information as described in NOAA's regulations at 15 CFR § 930.39.

Regardless of whether a Federal agency is required to obtain a state permit, the Federal agency still has to comply with the enforceable policies of a state's coastal management program, including those enforceable policies underlying the state permit. OCRM encourages Federal agencies and states to use "existing procedures in order to avoid waste, duplication of effort and to reduce Federal and State agency administrative burdens." 15 CFR § 930.34(a)(2). This includes state administrative processes. However, federal agencies and states are not required to do so for CZMA purposes.

In circumstances where Federal law, other than the CZMA, requires Federal agencies to obtain a State permit, the FCMP has offered Federal agencies the option of using the completed State ERP application as the consistency determination and the issuance of the State ERP as the state's consistency concurrence. For example, according to the FCMP, when the Corps is required to obtain a State ERP under the Clean Water Act, the Corps, through a longstanding agreement with the FCMP, chooses to use the submission of a complete State ERP application as its consistency determination, and the issuance of the ERP as the state's consistency concurrence and water quality certification.

While the FCMP acknowledges that a Federal agency can submit a Federal consistency determination in any manner it chooses (including those instances when a state permit is required by Federal law), federal agencies may perceive that the permit is required. Therefore, to clarify what is required of Federal agencies under the CZMA, the FCMP should clearly explain to Federal agencies that:

1. The CZMA does not require Federal agencies to apply for or obtain state permits;

2. When Federal law other than the CZMA requires a Federal agency to obtain a State permit, Federal agencies have the option of submitting a Federal consistency determination separately from the State ERP;
3. Federal agencies need only provide a state with a consistency determination and accompanying information as described in NOAA's regulations at 15 CFR § 930.39; and
4. The start of the State's 60-day CZMA review period will not be delayed because a Federal agency failed to apply for or obtain State permits.

Florida may, of course, continue to require a non-Federal applicant to submit a completed state ERP application as necessary data and information accompanying a consistency certification needed to review the Federal license or permit and provide that the issuance or denial of a State ERP shall serve as the state's concurrence with or objection to the consistency of federal license or permit activities pursuant to CZMA section 307(c)(3)(A) and 15 CFR part 930, subpart D. Federal agency activities under CZMA section 307(c)(1) and (2) and 15 CFR part 930, subpart C are not subject to the requirements for federal license or permit activities.

PROGRAM SUGGESTION

6) The FCMP should clarify the Federal consistency requirements and State review process regarding Federal agency consistency determinations when a Federal law other than the CZMA requires the Federal agency to obtain a State permit.

G) Coordination with Federal Agencies.

Despite the concerns addressed above, the State has developed strengthened working relationships with Federal agencies including the Minerals Management Service (MMS), NOAA's National Marine Fisheries Service (NMFS) and the U.S Air Force.

Over the past four years the FCMP in coordination with MMS has initiated a process to develop an approach with Florida to address the revisited rule for outer continental shelf (OCS) review. This effort has created a more effective process to provide the information needed for OCS plan review. An initial result is improved Federal-State communication and interaction.

NMFS has three Management Councils in Florida which develop plans and amendments, review previously approved plans and carry out the administrative functions of publishing, receipt of comments and for consistency review. During the past three years FCMP and the Management Councils have pursued improved coordination and early involvement as plans are reviewed and developed. This has resulted in expedited reviews and a decrease in confrontation with the State.

The U.S. Air Force, Eglin Air Force Base has held meetings with DEP over the past few years and has developed compliance guidelines on consistency and has established a process for negative determinations which is working well.

H) 6217 Approval.

Florida does not have an approved 6217 Plan. OCRM has forwarded a letter to the State detailing what is needed to have its plan approved and a response to that letter is under review in draft. The State requested that OCRM review the draft response in a meeting in Florida, before the response is sent. Based on the results of this meeting and any agreed to changes or alterations of the draft, a final response will be forwarded to OCRM.

V. CONCLUSION

Based on OCRM's review of the federally approved Florida Coastal Management Program and the criteria at 15 CFR 928.5(a)(3), I find that Florida is adhering to its federally approved coastal management program. Further advances in coastal management implementation will occur as the State addresses the program suggestions contained herein.

These evaluation findings contain six (6) recommendations which are program suggestions that the State should address before the next regularly scheduled program evaluation and which are not mandatory at this time.

This is a programmatic evaluation of the FCMP that may have implications regarding the State's financial assistance award(s). However, it does not make any judgment about or replace any financial audit(s).

Date

Eldon Hout, Director

**Florida Coastal Management Program
312 Evaluation**

PERSONS CONTACTED DURING THE EVALUATION

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Danny Clayton	
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Sally Mann	
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Lauren Milligan	
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Larry Perry	Lignumvitae Key Botanical State Park
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Apalachicola Bay National Estuarine Research Reserve
U.S. Minerals Management Service (MMS)
MMS
Florida Marine Research Institute (FMRI)
U.S Army Corps of Engineers (Corps)
Corps
Corps
U.S. Fish and Wildlife Service
Palm Beach County
St. Lucie County
St. Lucie County
St. Lucie County
St. Johns County
Eglin Air Force Base
Eglin Air Force Base
Navy, CNRSE
Navy, CNRSE
Navy, CNRSE
Navy, CNRSE

APPENDIX B

Florida Coastal Management Program 312 Evaluation

PERSONS ATTENDING THE PUBLIC MEETING

The Public Meeting was held on May 17, 2004, at 6:00 p.m. at the Douglas Building, Conference Room A, 3900 Commonwealth Boulevard, Tallahassee, Florida. There were no attendees.

APPENDIX C

Florida Coastal Management Program 312 Evaluation

WRITTEN COMMENT RECEIVED AND RESPONSE

Comments were received from Sydney T. Bacchus, Ph.D, Hydroecologist, P.O. Box 174, Athens Georgia 30603-0174 on behalf of: Tom Warnke, Government and Media Liaison, Palm Beach County Surfrider Foundation Chapter; the Palm Beach County Chapter of Surfrider Foundation; Wetlands Alert, Inc; and self.

The comments dealt with the issue of deep well injection of sewage and it's impact on Florida resources:

“One of the most significant threats to Florida's coastal zone is from sewage effluent resurfacing in nearshore waters after being injected into Florida's highly permeable karst aquifer system. These aquifer injections are permitted by FDEP. Although these regulatory actions are distinct from FDEP's FCMP, FCMP has made no effort to fund investigations regarding the magnitude of adverse impacts to the coastal environment from these aquifer injections, or to fund efforts that would educate the public about these adverse impacts.”

The comments concluded:

“...a serious conflict of interest exists with FCMP remaining under FDEP in any capacity. Serious consideration should be given to transferring the program to another agency, or withdrawing it from the state completely.”

Response:

The concerns expressed in the letter have been forwarded to the FCMP for consideration as it prepares future grant application packages. There were requests for information within the letter: for supplemental documents which were provided; for the opportunity to submit additional comments once the documents are received and reviewed, which is granted; for forwarding the letter to the State which has been done; and for inclusion on the distribution list for future State surveys, which will be done.

APPENDIX D

Florida Coastal Management Program 312 Evaluation

RESPONSE TO PREVIOUS FINDINGS

1) Program Suggestion: The DCA is encouraged to use the expertise of the FCMP as the agency embarks on a comprehensive assessment of the effectiveness of regulatory and non-regulatory approaches in place in the state for managing growth and development, and particularly the impact on the state's 35 coastal counties from the existing growth management system. The FCMP is in a unique position to facilitate the development of a state coastal vision, to implement programmatic strategies in the shorter term for strengthening the link between local, regional and state government agencies, and to facilitate broader efforts for recommending proposed changes to the Legislature.

Response: This did not occur.

2) Program Suggestion: In anticipation of the potential expansion of the Coastal Partnerships Initiative, the FCMP should consider preparing an implementation plan that contains an analysis of issues related to long-term staffing requirements, implementation strategies, and efforts to maximize relationships within DCA and the broader agency network. The program should also work with OCRM and the upper administrative levels of DCA to identify requirements for subgrant applicants that may be reduced, simplified, or if no longer consistent with current federal requirements, eliminated.

Response: This was considered.

3) Program Suggestion: With necessary support by DCA and the Governor's Office, the FCMP should continue in its efforts to promote the development and evaluation of the Blueways concept for the comprehensive, integrated, and more strategic management of the state's coastal resources. The FCMP is encouraged to take steps to broaden the application of Blueways geographically and institutionally by strengthening the management components necessary to set the stage for full implementation.

Response: This program is discussed in the Accomplishments Section IV, C.

APPENDIX E

Florida Coastal Program 312 Evaluation

TABLE OF RECOMMENDATIONS

Evaluation Recommendations For: Florida
Evaluation Findings Issued: (Date)

Number/Type of Recommendation		Recommendation Text	Required Date
Number	1	The FCMP should define priority coastal areas and issues where coordination would be beneficial and establish a mechanism to facilitate dialogue with the networked agencies on appropriate areas and issues. A contract could be let to set up a process, looking across the board at the whole permitting process from initial pre-application (including education regarding process for the applicant) through permit compliance that focuses on all agencies involved, not just the primary permitting agency (a possible 309 project).	
Necessary Action			
Program Suggestion	X		
Number	2	The FCMP is encouraged to develop user friendly documents explaining how it is now constituted, how the processes now work and how Florida's coastal resources are being managed.	
Necessary Action			
Program Suggestion	X		
Number	3	OCRM and FCMP should work to better articulate the enforceable policies of the program to facilitate federal review of program changes so that analyses may be focused on programmatic elements of the laws underpinning the FCMP.	
Necessary Action			
Program Suggestion	X		

Number	4	The FCMP is encouraged to revisit previous and emerging coastal issues to expand program coverage and initiatives to reconsider their importance to overall FCMP implementation. As the FCMP considers these initiatives, contracting for their accomplishment, or other approaches, such as the use of other agencies, regional groups, or localities should be considered for funding through its grant funds.	
Necessary Action			
Program Suggestion	X		
Number	5	The FCMP is encouraged to continue the development of electronic permit processing and to further streamline its processes through the use of information technology.	
Necessary Action			
Program Suggestion	X		
Number	6	The FCMP should clarify the Federal consistency requirements and State review process regarding Federal agency consistency determinations when a Federal law other than the CZMA requires the Federal agency to obtain a State permit.	
Necessary Action			
Program Suggestion	X		